

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BRADLEY JAMES YOUNG,

Petitioner,

v.

Case No. 23-CV-788

STATE OF WISCONSIN,

Respondent.

RECOMMENDATION AND ORDER

Bradley James Young is back before the court with a second petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Young filed his prior petition on June 14, 2021, and Magistrate Judge Stephen C. Dries denied it on May 15, 2022. (*See* Case No. 21-CV-727, ECF No. 20.)

On July 14, 2022, Young filed a notice of appeal. (Case No. 21-CV-727, ECF No. 25.) The court of appeals on June 9, 2023, dismissed Young's appeal for lack of jurisdiction, noting that his appeal was late. (Case No. 21-CV-727, ECF No. 31.)

Young then filed this action on June 15, 2023. Both cases relate to the same underlying conviction—Green County Circuit Court case number 2013CF78. (*See* Case Nos. 21-CV-727, ECF No. 1 at 2; 23-CV-788, ECF No. 1 at 2.)

A person incarcerated pursuant to a state court judgment ordinarily can pursue only a single petition under 28 U.S.C. § 2254 regarding the same underlying conviction. 28 U.S.C. § 2244(b). This bar applies even if the claims the petitioner seeks to raise in his second petition are distinct from the claims he raised in his first petition. 28 U.S.C. § 2244(b)(2).

Before Young may proceed with his petition, he must first turn again to the Court of Appeals for the Seventh Circuit, this time making clear that he is seeking permission to proceed with a second habeas petition in this district. *See* Cir. R. 22.2 (7th Cir). The procedure for making such a request is set forth in Circuit Rule 22.2.

“A district court must dismiss a second or successive petition, without awaiting any response from the government, unless the court of appeals has given approval for the filing.” *In re Page*, 170 F.3d 659, 661 (7th Cir. 1999) (quoting *Nunez v. United States*, 96 F.3d 990, 991 (7th Cir. 1996)); *see also* Rule 4 of the Rules Governing Section 2254 Cases (“If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner.”)

IT IS THEREFORE RECOMMENDED that Young’s petition and this action be dismissed as a second or successive petition under 28 U.S.C. § 2244(b).

IT IS FURTHER ORDERED that, in accordance with 28 U.S.C. § 636(b)(1)(B) and (C) and Fed. R. Civ. P. 72(b)(2), any written objections to any recommendation herein or

part thereof shall be filed within fourteen days of service of this recommendation.

Failure to timely object waives a party's right to review.

Dated at Milwaukee, Wisconsin this 20th day of June, 2023.


WILLIAM E. DUFFIN
U.S. Magistrate Judge